

Advanced Photon Source

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Identification of Proprietary Beam Time

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Identification of Proprietary Beam Time

POLICY

Beam time at the APS falls into two categories: proprietary and nonproprietary. In exchange for the use of the APS, the *technical data* derived from results of experiments are, in general, expected to become part of the public domain and with certain rights to the data (as defined in an institution's APS User Agreement) reserved by the U.S. government. If an institution has executed a proprietary APS User Agreement and pays for the beam time, researchers may keep certain intellectual property rights to "*proprietary data*" (see definitions in the Procedure for Establishing and Maintaining Proprietary APS User Accounts) resulting from work performed at the APS.

If an experimenter seeks to keep the proprietary rights to data resulting from work performed at the APS, then prior to the start of the experiment, the experimenter must declare the beam time to be proprietary as part of the proposal/safety assessment process.

The APS will charge a proprietary user fee if (1) the user is using an APS beamline facility for any activity (such as experiment setup, mounting and aligning samples, screening samples, and data collection) that is part of the work that is, or is intended to be, proprietary, and (2) the APS is delivering user beam.

Proprietary time is charged by the hour, and an experimenter must compensate the APS at a predetermined hourly rate (current rates available from the APS User Account Specialist) from an appropriate prefunded User Account. Any fractions of an hour will be charged as a full hour.

As part of the APS experiment proposal/safety review process, an Experiment Authorization (EA) form is generated. Each EA will be identified for either proprietary or nonproprietary beam time. An EA for proprietary beam time is valid for a maximum of one week. If the proprietary beam time extends beyond one calendar week, a new EA must be generated, approved, and posted.

The APS will use the posting of the proprietary EA form to provide a basis for tracking the proprietary beam time. At the start of the beam time, the experimenter notifies the Floor Coordinator (FC), the approved EA is posted in the cabinet at the end of the beamline, and the FC logs the start time. At the end of the beam time, the experimenter again notifies the FC, the EA is removed, and the FC logs the time. The time that the EA is posted will be designated as *proprietary beam time*. After the EA is removed, an e-mail notice of the recorded proprietary beam time is forwarded to the User Account Specialist and a user spokesperson.

General Users:

Each proposal for General User beam time will be for either proprietary or nonproprietary beam time, but not both. All beam time assigned under a proprietary proposal will be charged unless the storage ring or beamline is not available to the user. A spokesperson for the experiment has two business days after the receipt of the e-mail record of proprietary beam time to request that the APS amend its use records for either of the above-mentioned reasons. The request is made via e-mail to the User Account Specialist (useracct@aps.anl.gov) and must provide the basis for the request.

Partner Users:

If a portion of the time that a proprietary EA is posted is not used for proprietary work (e.g., if the storage ring or beamline is down for an extended period of time **or** if a portion of the time was used for nonproprietary work), a spokesperson for the experiment has two business days after the receipt of the e-mail record of proprietary beam time to request that the APS amend its use records to reflect the actual amount of proprietary beam time. The request is made via e-mail to the User Account Specialist (useracct@aps.anl.gov) and must provide the basis for the request.

PROCEDURE

1 Introduction

1.1 Purpose

This procedure describes the steps in identification of proprietary beam time used at the APS.

1.2 Scope

This procedure describes how the APS will track proprietary beam time use.

This procedure does not:

- define the terms and conditions for the rights to proprietary data,
- describe the process for paying for proprietary beam time.

1.3 Applicability

This procedure applies to all beam time used to collect proprietary data at the APS.

2 Prerequisite Actions

Prior to the start of proprietary experiments at the APS, the experimenter must establish a prefunded Proprietary User Account according to Procedure 3.1.24, Establishing and Maintaining Proprietary APS User Accounts ([APS_1186767](#)).

3 Procedure

3.1 General Users declare beam time as proprietary or nonproprietary with the submission of their proposal. Partner Users declare the beam time as proprietary or nonproprietary with the submission of their Experiment Safety Assessment Form.

3.2 With the entry of the ESAF, the APS will request that the spokesperson for the experiment provide the cost code(s) for the account(s) that will fund the proprietary beam use. If the user account information is not available at the time of the submission of the ESAF, the spokesperson is responsible for contacting the User Account Specialist (useracct@aps.anl.gov) with the account information prior to the start of the beam time. These accounts are prepaid.

3.3 At the start of an experiment, an experimenter uses the ESAF system to generate an EA form. The EA will be tagged in APS records as proprietary or nonproprietary. (Note: an

EA for proprietary beam time may be posted for up to one week. If the experiment is to be continued beyond a week, a new EA must be completed and posted.)

- 3.4 When the experiment starts, at the request of the experimenter, the EA form will be posted at the beamline by the FC. The FC will record the start time and will update the APS beam-use database.
- 3.5 When the experiment is completed, at the request of the user, the EA form will be removed by an FC. The FC will record the end time on the EA and will update the beam-use database.
- 3.6 The APS forwards an e-mail notice of the recorded proprietary beam time to the User Account Specialist and a user spokesperson.
- 3.7 Unless an exception is sought, a user must certify that the recorded proprietary beam time is correct in an e-mail to the User Account Specialist.
- 3.8 If an experimenter seeks to correct the proprietary beam-use record, a spokesperson for the experiment will have two business days after the receipt of the e-mail record of proprietary beam time to e-mail the User Account Specialist (useracct@aps.anl.gov) requesting that the record be modified. The request should include the basis of the request (e.g., if the storage ring is down for an extended period of time while the EA was posted).
- 3.9 The User Account Specialist will charge the specified user account(s) for the beam time.

4 References

1. Establishing and Maintaining Proprietary User Accounts, APS Policy and Procedure number 3.1.24 ([APS 1186767](#)).
2. APS standard proprietary User Agreements

5 Definitions

1. “Technical Data” means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may include, for example, document research, experimental, developmental, demonstration, or engineering work to be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media, such as drawings or photographs, text in specifications or related performance or design-type documents, or computer software (including computer programs, computer software databases, and computer software documentation). Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identification and related

information. Technical data as used in this subpart does not include financial reports, cost analyses, and other information incidental to contract administration.

2. “Proprietary Data” means technical data that embody trade secrets developed at private expense, such as design procedures or techniques; chemical composition of materials; or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data:
 - i. Are not generally known or available from other sources without obligation concerning their confidentiality;
 - ii. Have not been made available by the owner to others without obligation concerning their confidentiality; and
 - iii. Are not already available to the government without obligation concerning their confidentiality.

6 Feedback and Improvement

If you are using this procedure and have comments or suggested improvements for it, please go to the [APS Policies and Procedures Comment Form](#)^{*} to submit your input to a Procedure Administrator. If you are reviewing this procedure in workflow, your input must be entered in the comment box when you approve or reject the procedure.

Instructions for execution-time modifications to a policy/procedure can be found in the following document: Field Modification of APS Policy/Procedure ([APS 1408152](#)).

^{*} http://centraldocs.aps.anl.gov/comment_form.php